

[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-114942-07]

RIN 1545-BG73

Disclosure of Return Information in Connection with Written Contracts Among the IRS, Whistleblowers, and Legal Representatives of Whistleblowers

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the disclosure of return information, pursuant to section 6103(n), to whistleblowers and their legal representatives. The temporary regulations describe the circumstances by which an officer or employee of the Treasury Department may disclose return information to a whistleblower and, if applicable, the legal representative of the whistleblower, to the extent necessary in connection with a written contract among the IRS, the whistleblower and, if applicable, the legal representative of the whistleblower, for services relating to the detection of violations of the internal revenue laws or related statutes. The temporary regulations will affect officers and employees of the Treasury Department who disclose return information to whistleblowers, or their legal representatives, in connection with written contracts among the IRS, whistleblowers and, if applicable, their legal representatives, for services relating to the detection of violations of the internal revenue laws or related statutes. The temporary regulations will also affect any whistleblower, or legal

representative of a whistleblower, who receives return information in connection with a written contract among the IRS, the whistleblower and, if applicable, the legal representative of the whistleblower, for services relating to the detection of violations of the internal revenue laws or related statutes.

DATES: Written or electronic comments and requests for a public hearing must be received by **[INSERT DATE 90 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG-114942-07), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-114942-07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at www.regulations.gov (IRS - REG-114942-07).

FOR FURTHER INFORMATION CONTACT: Helene R. Newsome, 202-622-7950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Procedure and Administration Regulations (26 CFR part 301) under section 6103(n) relating to the disclosure of return information in connection with written contracts among the IRS, whistleblowers and, if applicable, their legal representatives.

The Tax Relief and Health Care Act of 2006, Public Law 109-432 (120 Stat. 2958), (the Act) was enacted on December 20, 2006. Section 406 of the Act amends section 7623, concerning the payment of awards to whistleblowers, and establishes a Whistleblower Office within the IRS that has responsibility for the administration of a whistleblower program. The Whistleblower Office, in connection with administering a whistleblower program, will analyze information provided by a whistleblower, and either investigate the matter itself or assign it to the appropriate IRS office for investigation. In analyzing information provided by a whistleblower, or investigating a matter, the Whistleblower Office may determine that it requires the assistance of the whistleblower, or the legal representative of the whistleblower. The legislative history of section 406 of the Act states that “[t]o the extent the disclosure of returns or return information is required [for the whistleblower or his or her legal representative] to render such assistance, the disclosure must be pursuant to an IRS tax administration contract.” Joint Committee of Taxation, Technical Explanation of H.R. 6408, The “Tax Relief and Health Care Act of 2006,” as Introduced in the House on December 7, 2006, at 89 (JCX-50-06), December 7, 2006. The legislative history further states that “[i]t is expected that such disclosures will be infrequent and will be made only when the assigned task cannot be properly or timely completed without the return information to be disclosed.” Id.

Under section 6103(a), returns and return information are confidential unless the Internal Revenue Code (Code) authorizes disclosure. Section 6103(n) is the authority by which returns and return information may be disclosed pursuant to a tax administration contract. Section 6103(n) authorizes, pursuant to regulations prescribed

by the Secretary, returns and return information to be disclosed to any person, including any person described in section 7513(a), for purposes of tax administration, to the extent necessary in connection with: (1) the processing, storage, transmission, and reproduction of returns and return information; (2) the programming, maintenance, repair, testing, and procurement of equipment; and (3) the providing of other services. These proposed regulations describe the circumstances, pursuant to section 6103(n), by which officers and employees of the Treasury Department may disclose return information to whistleblowers and, if applicable, their legal representatives, in connection with written contracts for services relating to the detection of violations of the internal revenue laws or related statutes.

The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains these proposed regulations

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel of the Small Business Administration for comment on its impact on small businesses.

Comments and Request for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Helene R. Newsome, Office of the Associate Chief Counsel (Procedure & Administration).

List of Subjects in 26 CFR part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301--PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 301.6103(n)-2 also issued under 26 U.S.C. 6103(n); * * *

Par. 2. Section 301.6103(n)-2 is added to read as follows:

§301.6103(n)-2 Disclosure of return information in connection with written contracts among the IRS, whistleblowers, and legal representatives of whistleblowers.

[The text of this proposed section is the same as the text of §301.6103(n)-2T published elsewhere in this issue of the **Federal Register**].

Linda E. Stiff,
Deputy Commissioner for Services and Enforcement.

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